

\_\_\_\_\_ BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_  
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW ALLOWING A JUDGE TO IMPOSE RESTRICTIONS IN SENTENCING CERTAIN CRIMINAL DEFENDANTS TO DELETE A PROVISION THAT MAY BE IN VIOLATION OF THE 6TH AND 14TH AMENDMENTS TO THE U.S. CONSTITUTION IN THAT IT MAY REQUIRE A SENTENCING ENHANCEMENT BASED UPON FACTS NOT FOUND BY THE TRIER OF FACT TO BE BEYOND A REASONABLE DOUBT; AMENDING SECTION 46-18-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 46-18-202, MCA, is amended to read:

**"46-18-202. Additional restrictions on sentence.** (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

- (a) prohibition of the offender's holding public office;
- (b) prohibition of the offender's owning or carrying a dangerous weapon;
- (c) restrictions on the offender's freedom of association;
- (d) restrictions on the offender's freedom of movement;
- (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;
- (f) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

(2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. ~~If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction.~~

(3) An offender convicted of a sexual offense, as defined in 46-23-502, except an offense under 45-5-301 through 45-5-303, and sentenced to imprisonment in a state prison shall enroll in and complete the educational phase of the prison's sexual offender program."

**NEW SECTION.** **Section 2. Effective date.** [This act] is effective on passage and approval.

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